

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:15-cr-499-MHT-CSC
)	
CHRIS MILES)	

PLEA AGREEMENT

DEFENSE COUNSEL:	STEPHEN P. GANTER
ASSISTANT U.S. ATTORNEY:	JERUSHA T. ADAMS
TRIAL ATTORNEY/DOJ:	GABRIEL A. DAVIS

COUNTS PLEADING PURSUANT TO PLEA AGREEMENT:

Count 1	<u>18 U.S.C. § 242</u> Deprivation of Rights
Counts 2, 3	<u>18 U.S.C. § 1001(a)(2)</u> False Statements to a Federal Agent
Count 4	<u>21 U.S.C. § 841(a)(1)</u> Possession with Intent to Distribute

PENALTIES BY COUNT – MAXIMUM PENALTY:

Count 1	<u>18 U.S.C. § 242</u> - Deprivation of Rights
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A term of imprisonment not to exceed 10 years, a fine not to exceed \$250,000, or both the fine and the imprisonment; a term of supervised release of no more than 3 years; an assessment fee of \$100.00; and restitution to any victims of the offense.

Counts 2, 3	<u>18 U.S.C. § 1001(a)(2)</u> - False Statements to a Federal Agent
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A term of imprisonment not to exceed 5 years, a fine not to exceed \$250,000, or

both the fine and the imprisonment; a term of supervised release of no more than 3 years; an assessment fee of \$100.00; and restitution to any victims of the offense.

Count 4 21 U.S.C. § 841(a)(1) – Possession with Intent to Distribute

A term of imprisonment not to exceed 5 years, a fine not to exceed \$250,000, or both the fine and the imprisonment; a term of supervised release of no more than 2 years; an assessment fee of \$100.00; and restitution to any victims of the offense.

ELEMENTS OF THE OFFENSE:

Count 1 18 U.S.C. § 242 - Deprivation of Rights

To prove a felony violation of 18 U.S.C. § 242, the United States must establish the following elements beyond a reasonable doubt:

1. The defendant acted under color of law;
2. The defendant deprived the victim, S.C., of a right secured and protected by the Constitution and laws of the United States; namely, the right to be free from cruel and unusual punishment which includes the right not to be subjected to excessive force by one acting under color of law;
3. The defendant acted willfully; and
4. The offense involved the use of a dangerous weapon or resulted in bodily injury to S.C.

Counts 2, 3 18 U.S.C. § 1001(a)(2) - False Statements to a Federal Agent

To prove a felony violation of 18 U.S.C. § 1001, the United States must establish the following elements beyond a reasonable doubt:

1. The defendant made the statement, as charged;
2. The statement was false;
3. The falsity concerned a material matter;
4. The defendant acted willfully, knowing that the statement was false; and
5. The false statement was made or used for a matter within the jurisdiction of a department or agency of the United States.

Count 4 21 U.S.C. § 841(a)(1) – Possession with Intent to Distribute and Distribution

To prove a felony violation of 18 U.S.C. § 841(a)(1), the United States must establish the following elements beyond a reasonable doubt:

1. The defendant knowingly possessed marijuana;
2. The defendant intended to distribute and did distribute the marijuana.

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Jerusha T. Adams, Assistant United States Attorney, and Gabriel A. Davis, Trial Attorney of the Civil Rights Division of the Department of Justice, attorneys for the United States, and Stephen P. Ganter, attorney for the defendant, with the authorization of the undersigned defendant, entered into discussions with a view towards reaching a resolution of pending charges against the defendant, and a Plea Agreement has been reached by the parties. The terms of the Plea Agreement are set forth in this document. This Plea Agreement is being submitted to the Court pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure. Both the United States and the defendant understand that, in accordance with that Rule, if the Court decides not to follow the terms of the Plea Agreement, the defendant has the right to withdraw his plea of guilty before sentencing. The defendant further acknowledges that a breach of this Plea Agreement will not entitle him to withdraw his guilty plea and that his guilty plea will remain in full force and effect, even if he breaches this agreement, unless the United States invalidates the plea.

UNITED STATES' PROVISIONS

1. Upon entering a plea of guilty by the defendant to the offenses charged in all counts of the Information, the attorneys for the United States will do the following:
 - a. The United States will agree, pursuant to Fed. R. Crim. P. 11(c)(1)(A), for so long as the defendant's guilty plea and the sentence remain in effect, not to pursue any other

criminal charges against the defendant stemming from the facts supporting his conviction in this case. This agreement does not prevent the government from seeking charges based on other conduct.

b. The United States agrees that a 2-level decrease in the applicable offense level pursuant to U.S.S.G. § 3E1.1(a) for the defendant's acceptance of responsibility is appropriate, so long as between the date of this agreement and the date of sentencing, the defendant does not obstruct justice, commit any new federal or state offense, or otherwise fail to accept responsibility for the offense conduct. Should the United States find the defendant assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the defendant's intention to enter a plea of guilty, thereby permitting the United States to avoid preparing for trial and permitting the United States and this Court to allocate their resources efficiently, and if the defendant otherwise qualifies, the United States will move at sentencing for a further reduction of 1 level, pursuant to U.S.S.G. § 3E1.1(b). Determination of whether the defendant met the defendant's obligations to qualify for the reduction pursuant to U.S.S.G. § 3E1.1 is at the sole discretion of the United States.

c. The United States agrees that the defendant has the right to argue for a downward variance at sentencing.

2. The United States makes no representation regarding the defendant's criminal history category, which will be determined solely by the United States Probation Office.

3. The United States reserves the right to inform the Court and the United States Probation Office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses and the defendant's background.

DEFENDANT'S PROVISIONS

4. The defendant agrees to paragraphs 1 through 3 of the United States' provisions and agrees to the following:

- a. To waive Indictment and plead guilty to all counts of the Information.
- b. To waive appeal and collateral attack as detailed in the section labeled "Defendant's Waiver of Appeal and Collateral Attack" below.
- c. To waive the protections of Fed. R. Evid. 410 as set forth in the section labeled "Defendant's Waiver of Fed. R. Evid. 410" below.
- d. To accept responsibility for his crimes and not to commit any other federal, state, or local offense while awaiting sentencing. The determination of whether the defendant's conduct is a violation of this provision is at the sole discretion of the United States.
- e. The defendant expressly reserves the right to argue for a downward variance at sentencing.

DEFENDANT'S WAIVER OF APPEAL AND COLLATERAL ATTACK

5. Understanding that 18 U.S.C. § 3742 provides for appeal by a defendant of the sentence under certain circumstances, the defendant expressly waives any and all rights conferred by 18 U.S.C. § 3742 to appeal the sentence. The defendant specifically waives the right to appeal the sentence on the grounds that the sentencing guidelines are in any respect unconstitutional, or that any fact found by the Court for sentencing was not alleged in the Information, admitted by the defendant, found by a jury, or found beyond a reasonable doubt. The defendant further expressly waives the right to appeal the conviction and sentence on any other ground and waives the right to attack the conviction and sentence in any post-conviction proceeding, including proceedings pursuant to 28 U.S.C. § 2255. This waiver does not include the right to appeal on the grounds of ineffective assistance of counsel or prosecutorial

misconduct, or to collaterally attack the sentence imposed on those grounds. But, other than those grounds, the defendant expressly waives the right to appeal or collaterally attack his conviction or sentence.

6. The defendant agrees that even though he is waiving his appeal rights, the United States does not waive its right to appeal the sentence imposed in the instant case. The United States does not waive its right to appeal any order dismissing the Information, vacating a sentence, or otherwise terminating the prosecution at any stage of the proceedings. Further, the parties agree that nothing in this agreement shall affect the United States' right and/or duty to appeal as set forth in 18 U.S.C. § 3742(b). If the United States appeals the defendant's sentence pursuant to 18 U.S.C. § 3742(b), the defendant is released from his waiver as to any issue the defendant may raise pursuant to 18 U.S.C. § 3742(a).

DEFENDANT'S WAIVER OF FED. R. EVID. 410

7. The defendant expressly and voluntarily waives the protection of Fed. R. Evid. 410. Thus, in the event that he violates the Plea Agreement or, at any time after signing this agreement, withdraws his offer to plead guilty, any statements he makes in conjunction with, or following, this Plea Agreement – including the statements contained in the section labeled “Factual Basis,” any statements he makes to law enforcement that are not covered by a proffer agreement, any re-arraignment colloquies related to this case, any testimony he gives before a grand jury or another tribunal, and any leads from such statements, testimony or colloquies – shall be admissible for all purposes against him in any and all criminal proceedings. The defendant admits that the allegations in the Information are true, and that those allegations, along with the other statements listed above, will be admissible against him for any and all purposes if, for any reason, he fails to plead guilty, or withdraws his guilty plea.

FACTUAL BASIS

8. The defendant admits the allegations charged in all counts of the Information and understands and agrees that if this matter were to go to trial, the United States would prove beyond a reasonable doubt, through the introduction of competent testimony and admissible tangible exhibits, the following facts to support those allegations:

a. From an unknown date through on or about October 20, 2013, the defendant was the Assistant Police Chief for the Tallassee Police Department and the custodian for evidence kept in the main evidence room at the Police Department, both located in Elmore County, Alabama. On or about an unknown date in January 2013, the defendant removed vacuum sealed packages containing a total of approximately 16 pounds (over 7 kilograms) of marijuana from the main evidence room and took said packages to his residence located in Elmore County, Alabama.

b. Shortly thereafter, the defendant gave some of the packages containing marijuana to a person the defendant knew to be a drug dealer in exchange for the promise of money. Thereafter, the known drug dealer gave the defendant United States currency exceeding four thousand dollars (\$4,000.00) as payment for the marijuana.

c. On or about April 25, 2013, while the defendant was still the Assistant Police Chief for the Tallassee Police Department, S.C. was a convicted prisoner serving a term of incarceration at the jail for the city of Tallassee. The jail is located at the Police Department. That evening, while at the Police Department, the defendant interrogated S.C. about criminal acts S.C. was believed to have committed.

d. During the interrogation, the defendant, while acting under color of law, willfully deprived S.C. of the right, secured and protected by the Constitution and laws of

the United States, to be free from cruel and unusual punishment, which includes the right not to be subjected to excessive force by one acting under color of law. Specifically, the defendant struck S.C. without cause multiple times across the face and head with a thick packet of copy paper, and with the defendant's open hand, while S.C. posed no threat and was detained.

e. The strikes to S.C. resulted in bodily injury, including physical pain, redness, and bruising, to S.C.

f. On June 3, 2014, during an interview conducted by a Special Agent of the Federal Bureau of Investigation (FBI), when the defendant was asked whether he had ever hit S.C. with a packet of copy paper, the defendant answered "no" and stated that he never hit S.C. with an object other than the defendant's hand. At the time, the FBI was investigating allegations that the defendant abused S.C. at the Tallassee jail and coerced S.C. into confessing to crimes.

g. The FBI continued its investigation and, on June 13, 2014, conducted another interview of the defendant. During that interview, when the defendant was asked again in connection with the abuse investigation whether he had ever hit S.C. with a packet of copy paper, the defendant again responded that he did not strike S.C. with a packet of copy paper.

h. At the time of these denials, the defendant then well knew that he did in truth and in fact strike S.C. with a packet of copy paper while S.C. was in custody at the Tallassee Police Department jail. Approximately one year later, the defendant admitted that he had lied during the prior FBI interviews and that he did in fact strike S.C. with a packet of copy paper twice in the head.

The defendant admits that these allegations are true. Both the United States and the defendant agree that this factual basis does not contain all of the relevant information known to the defendant. The parties also agree that this is a sufficient factual basis for the crime to which the defendant is pleading guilty, but it is not an exhaustive statement by the defendant.

18 U.S.C. § 3553(a)

9. The defendant acknowledges that, prior to signing this document his attorney has reviewed this document with him and advised him that the Court, at sentencing, will consider the factors set forth in 18 U.S.C. § 3553(a). The defendant also acknowledges that, prior to signing this document, his attorney explained to him each of those factors, including: (1) the nature and circumstances of the offense and the history characteristics of the defendant, and the need to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (2) the need for deterrence; (3) the need to protect the public; (4) the need to provide the defendant with needed educational or vocational training or medical care; (5) the kinds of sentences available; (6) the need to avoid unwanted sentencing disparities; and, (7) the need to provide restitution to victims.

DEFENDANT'S UNDERSTANDING AND ACKNOWLEDGMENT

10. The defendant, before entering a plea of guilty to all counts of the Information, advises the Court that:

a. The discussions between the attorneys for the United States and the attorneys for the defendant towards reaching a guilty plea by the defendant in this case have taken place with the defendant's authorization and consent.

b. The defendant acknowledges that a breach of the Plea Agreement will not entitle him to withdraw his guilty plea in this case. The defendant understands and

acknowledges that his guilty plea will remain in full force and effect, even if he breaches this agreement, unless and until the government, in its discretion, affirmatively invalidates the plea.

c. The defendant further understands that, pursuant to Title 18, United States Code, Section 3013, the mandatory \$400.00 special assessment fee (\$100.00 per count) is to be paid by the defendant on the date of sentencing. The defendant will make an honest, good faith effort to pay this fee as directed by the Financial Litigation Section of the United States Attorney's Office. The defendant further understands that by completing the financial statement, he is representing that it is true and accurate to the best of his information, knowledge, and belief.

d. The defendant understands that he has a right to be represented by an attorney at every stage of the proceedings against him and that he is represented by the undersigned attorney.

e. The defendant understands that the defendant has the right to plead not guilty and has the right to be tried by a jury and that at any trial the defendant has the right to the assistance of counsel, the right to confront and cross-examine witnesses against him, the right to call witnesses in his own behalf, and the right not to be compelled to incriminate himself. The defendant also understands that if he enters a guilty plea, there will not be a trial of any kind and that by the entry of such a plea, the defendant waives the right to a trial by jury or to a trial before the Court.

f. The defendant further understands that in entering a guilty plea, the Court may ask questions about the offense to which the plea is entered and that, if the defendant makes any false statements, the defendant's statements may later be used against him in a prosecution for perjury or false statements.

g. The defendant further understands and advises the Court that the Plea Agreement and the guilty plea to be entered by the defendant are voluntary on the defendant's part and are not the result of any force or threats or of any promises apart from the representations set forth in this document. The defendant further advises the Court that the Plea Agreement is the result of prior discussions between the attorneys for the United States and the attorney for the defendant, and such discussions were conducted with the defendant's authorization, knowledge, and consent.

h. The defendant further advises the Court that the defendant understands that the statements contained in this document represent the defendant's entire agreement with the United States, and that there are not any other agreements, letters, or notations that will affect this Plea Agreement.

i. The defendant is satisfied that defense counsel has been competent and *effective in representing defendant*.

j. If convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

11. The undersigned attorneys for the United States and for the defendant represent to the Court that the terms and provisions set forth in this document is the agreement of the parties that has been reached pursuant to the Plea Agreement procedure provided for in Rule 11, Federal Rules of Criminal Procedure, as Amended. The attorney for the defendant further advises the Court: a) that the defendant has been advised of the nature of the charges to which the defendant's guilty plea is offered; b) that the defendant has been advised of the defendant's right to plead not guilty and to be tried by a jury on all issues discussed in this Plea Agreement; c) that

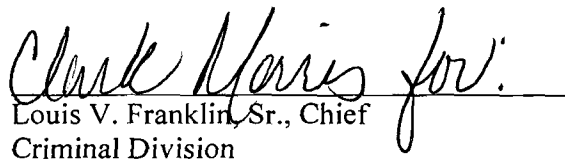
the defendant has been advised of the maximum possible penalties provided by law; d) that the defendant has been advised that by entering a plea of guilty, he waives the right to be tried by a jury or by the Court, he waives the right to confront and cross-examine witnesses against him, and he waives the right not to be compelled to incriminate himself; and e) that the defendant has been advised that if the defendant pleads guilty, there will not be a trial of any kind.

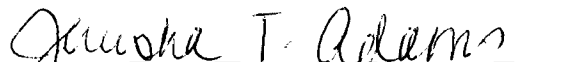
12. The defendant understands that the United States Probation Office will prepare a presentence investigation report for the Court. The Probation Officer will consider the defendant's conduct related to the offense to which the plea is offered, as well as the defendant's criminal history. The offense level or criminal history category, as calculated by the Probation Officer and determined by the Court, may differ from that projected by defendant's counsel or the United States. In the event that the Court determines the defendant's offense level or criminal history category to be higher than the defendant anticipated, the defendant will have no right to withdraw the plea on that basis.

This 13th day of November, 2015.

Respectfully submitted,

FOR THE UNITED STATES ATTORNEY,
GEORGE L. BECK, JR.


Louis V. Franklin, Sr., Chief
Criminal Division


Jerusha T. Adams
Assistant United States Attorney
131 Clayton Street
Montgomery, Alabama 36104

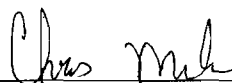
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FOR THE PRINCIPAL DEPUTY
ASSISTANT ATTORNEY GENERAL
FOR CIVIL RIGHTS, VANITA GUPTA

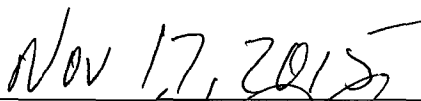
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I have read the foregoing Plea Agreement, and I understand them, and the documents correctly state the representations that have been made to me and accurately set forth the conditions of the Plea Agreement that has been reached.

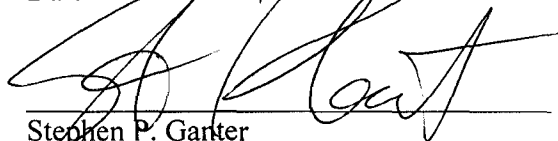
IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" PARAGRAPHS ABOVE ARE TRUE AND CORRECT AND THAT I AM SATISFIED THAT I HAVE RECEIVED COMPETENT ADVICE AND REPRESENTATION FROM MY DEFENSE COUNSEL, STEPHEN P. GANTER.



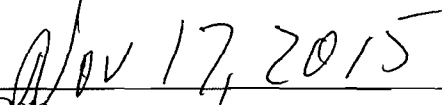
Chris Miles
Defendant



Date



Stephen P. Ganter
Attorney for the Defendant



Date